

AMENDMENTS TO THE DRAWINGS

The attached drawing sheet includes changes to Figure 2. This sheet replaces the previously filed drawing sheet, including Figure 2. In Figure 2, reference number --80-- has been inserted to indicate a container. No new matter has been added.

Attachment: One replacement sheet

REMARKS

I. Introduction

With the cancellation without prejudice of claim 37 and 40 to 47 and the addition of new claim 48, claims 27 to 36, 38, 39 and 48 are pending in the present application. In view of the foregoing amendments and the following remarks, Applicant respectfully submits that the claims are now in condition for allowance.

Applicant thanks the Examiner for considering the previously filed Information Disclosure Statement, PTO-1449 papers and cited references.

II. Double Patenting Rejection

As regards the double patenting rejection, while Applicant does not necessarily agree with the merits of this rejection, to facilitate matters, Applicant is prepared to file a terminal disclaimer upon withdrawal of all other rejections and an indication that the present application is otherwise in condition for allowance.

III. Allowable Subject Matter

Applicant note with appreciation the indication of allowable subject matter included in claim 28. The Examiner will note that claim 28 has been rewritten herein in independent form to include all of the features of its base claim. It is therefore respectfully submitted that claim 28 is in condition for immediate allowance.

IV. Objection to the Drawings

As regards the objection to the drawings, the Examiner will note that Figure 2 has been amended herein to include a reference numeral --80-- to indicate a container and that a heat exchanger is situated in an interior of a container on a top side of the container. No new matter has been added. Accordingly, withdrawal of this objection is respectfully requested.

V. Objection to the Specification

As regards the objection to the Specification, the Specification has been amended herein without prejudice to refer to a container by reference numeral --80--. Thus, the Specification provides sufficient antecedent basis for a heat

exchanger being situated in an interior of a container on a top side of the container. The original Specification at, *inter alia*, page 3, lines 25 to 31, states:

[The] combination of the evaporators 10 and the air movers 12 shown in Fig. 1 may be used with marine containers (not shown) which are typically used to transport fresh produce. However, fresh produce gives off a significant amount of heat while ripening and, therefore, during transit it is desirable to control the rate of ripening. As a result of the evaporators' 10 extraction of heat and humidity from the airflow through the housings 20, ***the downwardly directed airflow then permits cooler and dryer air to contact the fresh produce*** to prolong or stabilize the rate of ripening.

(*emphasis added*). The Specification states that the heat exchanger may be used in containers. Further, the language providing that the airflow is directed "***downwardly . . . to contact the fresh produce***" clearly conveys that a heat exchanger may be situated in an interior top side of a container.

Regarding the phrase "wherein a distance from the inlet to the outlet is between 3.3 and 3.5 times a height of one of the ends," without necessarily agreeing with the merits of this objection with respect to this phrase, the Examiner will note that claim 37 has been canceled herein without prejudice, thereby rendering moot the present objection with respect to this phrase.

In view of the foregoing, withdrawal of this objection is respectfully requested.

VI. Rejection of Claims 30 and 37 Under 35 U.S.C. § 112

Claims 30 and 37 were rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. As an initial matter, while this rejection with respect to claim 37 is not necessarily agreed with, to facilitate matters, claim 37 has been canceled herein without prejudice, thereby rendering moot this rejection with respect to claim 37.

Regarding claim 30, the Specification states that airflow is directed downwardly to contact fresh produce, which clearly conveys that a heat exchanger may be situated at an interior top side of a container to direct airflow downwardly onto the produce. See Specification, page 3, lines 25 to 31. Thus, it is plainly

apparent that Applicant was in possession of the claimed subject matter as of the filing date of the present application and the parent application.

In view of all of the foregoing, withdrawal of this rejection is respectfully requested.

VII. Rejections of Claims 29 to 33, 35 to 41 and 44 to 46 Under § 102(b)

Claims 27 and 29 to 39 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 4,544,023 ("Marciniak"). Claims 27 and 29 to 39 were also rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 4,182,134 ("Viegas et al."). As an initial matter, claim 37 has been canceled herein without prejudice, thereby rendering moot the present rejection with respect to claim 37.

Claim 27 as amended herein without prejudice recites that a system for transporting produce includes: a container adapted to hold the produce; a heat exchanger associated with the container, the heat exchanger including: a housing adapted to enclose a coil assembly, the coil assembly tilted in an interior of the housing, the coil assembly partially defining in the housing on opposite sides of the coil assembly a first airflow plenum and a second airflow plenum; and at least one air mover situated adjacent to the housing, the at least one air mover configured to **draw airflow through the second airflow plenum in a first generally horizontal direction**, the at least one air mover **directing the airflow from the second airflow plenum in a second generally vertical direction** substantially perpendicular to the first generally horizontal direction. The system provides a low profile heat exchanger that minimizes its spatial requirements while maximizing airflow therethrough to provide a more efficient heat exchange. Specification, page 1, lines 17 to 25.

Marciniak describes a heat exchange apparatus that is **mountable vertically in an exterior building wall structure having an exterior wall panel and interior wall panel**. The apparatus described in Marciniak is specifically designed to be mounted between adjacent studs in the wall structure of the building. See Abstract; column 2, lines 28 to 47; and Figures 1 to 3. As shown in Figure 3, air enters the apparatus at air intake 34, travels in a **vertical direction across indoor coil 42** and exits through air discharge 36 in a **horizontal direction**. See also column 3, lines 26 to 56. The apparatus disclosed in Marciniak is specifically designed to move warm air proximate to a ceiling of a building for cooling and then returning it proximate to the floor of the building. Column 3, lines 47 to 56.

Marciniak does not describe, e.g., a system for transporting produce that includes a container adapted to hold produce or a heat exchanger that includes at least one air mover situated adjacent to a housing that draws airflow through a tilted coil assembly, in a first generally horizontal direction and then directs airflow in a second generally vertical direction. Marciniak is clearly different from the aforementioned features recited in amended claim 27.

Viegas et al. describe a heat exchange apparatus that is **mountable vertically on a front wall of a trailer** and which utilizes a generally planar frame attached to the front wall to provide a support arrangement in which the load of its components is transferred back to the planar frame. See Abstract and column 2, line 65 to column 5, line 2. As shown in Figure 2 and 5, air is drawn into vertical duct 54 from the adjacent floor and passes into the bottom inlet opening 52 and **vertically through evaporator coil 60** into upper front space 66 of a plenum and is then forced out through the upper opening 56 at the top corner of the plenum in a **general horizontal direction** back into the trailer. See also column 5, lines 55 to 64.

Viegas et al. do not describe, e.g., a system for transporting produce that includes a container adapted to hold produce or a heat exchanger that includes at least one air mover situated adjacent to a housing that draws airflow through a tilted coil assembly, in a first generally horizontal direction and then directs airflow in a second generally vertical direction. Viegas et al. is clearly different from the aforementioned features recited in amended claim 27.

To anticipate a claim, each and every element as set forth in the claim must be found in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of Calif.*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). That is, the prior art must describe the elements arranged as required by the claims. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). As more fully set forth above, it is respectfully submitted that neither Marciniak nor Viegas et al. disclose, or even suggest, all of the features recited in amended claim 27. As such, it is respectfully submitted that neither Marciniak nor Viegas et al. anticipate amended claim 27.

As for claims 29 to 36 and 38 to 40, which ultimately depend from claim 27, and therefore include all of the features recited in claim 27, it is respectfully

submitted that neither Marciniak nor Viegas et al. anticipate these dependent claims for at least the same reasons more fully set forth above.

For at least the foregoing reasons, withdrawal of these rejections is respectfully requested.

VIII. New Claim 48

New claim 48 has been added herein. No new matter has been added, as support for claim 48 may be found in the Specification at, *inter alia*, page 1, lines 3 to 31; and Figures 1 and 2.

New claim 48 ultimately depends from claim 27 and therefore includes all of the features included in claim 27. As such, it is respectfully submitted that claim 48 is patentable over the references relied upon for at least the same reasons more fully set forth above in support of the patentability of claim 27.

IX. Conclusion

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

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By:

Respectfully submitted,



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